

1 HONORABLE RONALD B. LEIGHTON
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9
10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA

13 14 UNITED STATES OF AMERICA,
15 Plaintiff,

v.

TODD GEHMAN HOWARD,

Defendant.

Case No. CR09-5350RBL

ORDER

16
17 THIS MATTER comes on before the above-entitled Court upon Defendant's Motion for Stay of
18 Probation Pending Appeal [Dkt. #214] and Motion for Time to File a Motion to Reconsider Sentencing
19 [Dkt. #215]. Having considered the entirety of the records and file herein, and having considered that no
20 response from the Government to these motions is necessary because sentencing decisions are uniquely
21 the Court's, the Court finds and rules as follows:

22 The Defendant was sentenced to two years probation on January 29, 2010 after his conviction by a
23 jury for concealing a person from arrest in violation of 18 U.S.C. § 1071 and for making a false statement
24 in violation of 18 U.S.C. § 1001(a)(2). He filed a Notice of Appeal on February 12, 2010. He now seeks
25 to stay his probation pending appeal pursuant to Fed. R. Crim. P. 38(d). The Court declines to issue the
26 stay. The sentence of probation was imposed after a consideration of the factors set forth in 18 U.S.C. §
27 3553(a). The Defendant's presentence filings and his argument that the Court did not have jurisdiction
28 demonstrates that the Defendant has yet to grasp the seriousness of his offense and evinces a lack of

1 respect for the law. In such circumstances probation supervision is necessary to protect the community
2 and to deter the Defendant from further criminal activities. Pursuant to 28 U.S.C. § 3564(a), Defendant's
3 term of probation commenced on January 29, 2010 and will continue during the pendency of his appeal
4 for up to two years.

5 The Defendant seeks additional time to file a motion for reconsideration of his sentence. Because
6 the Court does not have jurisdiction to consider a motion for reconsideration,¹ Defendant's motion for
7 additional time to file that must be denied.

8 **IT IS THEREFORE ORDERED:**

9 1. Defendant's Motion for Stay of Probation Pending Appeal [Dkt. #214] is **DENIED**.
10 2. Defendant's Motion for Time to File a Motion to Reconsider Sentence [Dkt. #215] is
11 **DENIED**.

12 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party
13 appearing pro se.

14 Dated this 3RD day of March, 2010.

15 
16 Ronald B. Leighton
17 RONALD B. LEIGHTON
18 UNITED STATES DISTRICT JUDGE

27 ¹Federal Rule of Criminal Procedure 35(a) provides that a court may correct a sentence for "arithmetical, technical, or other
28 clear error." Rule 35(b) allows a court to reduce a sentence only upon a motion by the Government. The court retains, however,
its power and discretion to modify the terms of probation once imposed. Fed. R. Crim P. 32.1(c); 18 U.S.C. § 3563(c) and 3564(c).
The Court declines to modify the Defendant's conditions of probation at this time.